

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

ANTOINE RAHIM DAVIS,

Plaintiff,

v.

CAMDEN COUNTY
CORRECTIONAL FACILITY,

Defendant.

HONORABLE JEROME B. SIMANDLE

Civil Action

No. 17-cv-11843 (JBS-AMD)

OPINION

APPEARANCES:

Antoine Rahim Davis, Plaintiff Pro Se
P.O. Box 156
Lawnside, NJ 08028

SIMANDLE, United States District Judge:

1. Plaintiff Antoine Rahim Davis seeks to bring a civil rights complaint pursuant to 42 U.S.C. § 1983 against Camden County Correctional Facility ("CCCF") for allegedly unconstitutional conditions of confinement. Complaint, Docket Entry 1.

2. 28 U.S.C. § 1915(e)(2) requires courts to review complaints prior to service in cases in which a plaintiff is proceeding *in forma pauperis*. Courts must *sua sponte* dismiss any claim that is frivolous, is malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. This action is

subject to *sua sponte* screening for dismissal under 28 U.S.C. § 1915(e)(2)(B) because Plaintiff is proceeding *in forma pauperis*.

3. For the reasons set forth below, the Court will: (a) dismiss the Complaint with prejudice as to claims made against CCCF; and (b) dismiss the Complaint without prejudice for failure to state a claim. 28 U.S.C. § 1915(e)(2)(b)(ii).

Claims Against CCCF: Dismissed With Prejudice

4. Plaintiff brings this action pursuant to 42 U.S.C. § 1983¹ for alleged violations of Plaintiff's constitutional rights. In order to set forth a *prima facie* case under § 1983, a plaintiff must show: "(1) a person deprived him of a federal right; and (2) the person who deprived him of that right acted under color of state or territorial law." *Groman v. Twp. of Manalapan*, 47 F.3d 628, 633 (3d Cir. 1995) (citing *Gomez v. Toledo*, 446 U.S. 635, 640 (1980)).

5. CCCF is not a "person" for purposes of actions under 42 U.S.C. § 1983; that is, CCCF is not a "state actor" within the meaning of § 1983. See *Crawford v. McMillian*, 660 F. App'x 113, 116 (3d Cir. 2016) ("[T]he prison is not an entity subject

¹ Section 1983 provides: "Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State . . . subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress" 42 U.S.C. § 1983.

to suit under 42 U.S.C. § 1983.") (citing *Fischer v. Cahill*, 474 F.2d 991, 992 (3d Cir. 1973)); *Grabow v. Southern State Corr. Facility*, 726 F. Supp. 537, 538-39 (D.N.J. 1989) (correctional facility is not a "person" under § 1983)

6. Therefore, the Complaint does not allege that a "person" within the meaning of § 1983 deprived Plaintiff of a federal right and does not meet the standards necessary to set forth a *prima facie* case under § 1983. Accordingly, the claims against the CCCF must be dismissed with prejudice.

7. Plaintiff may be able to amend the Complaint to name a person or persons who were personally involved in the alleged unconstitutional conditions of confinement. The Court therefore grants Plaintiff leave to amend the Complaint within 30 days of the date that this Opinion and Order are entered on the docket.

Conditions Of Confinement Claims:
Dismissed Without Prejudice

8. For the reasons set forth below, the Court will dismiss the Complaint without prejudice for failure to state a claim as to alleged overcrowded conditions of confinement at CCCF. 28 U.S.C. § 1915(e)(2)(b)(ii).

9. To survive *sua sponte* screening for failure to state a claim², the Complaint must allege "sufficient factual matter" to

² "The legal standard for dismissing a complaint for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) is the same as that for dismissing a complaint pursuant to Federal Rule

show that the claim is facially plausible. *Fowler v. UPMS Shadyside*, 578 F.3d 203, 210 (3d Cir. 2009) (citation omitted). *Accord Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007)); *Fair Wind Sailing, Inc. v. Dempster*, 764 F.3d 303, 308 n.3 (3d Cir. 2014). While *pro se* pleadings are liberally construed, “*pro se* litigants still must allege sufficient facts in their complaints to support a claim.” *Mala v. Crown Bay Marina, Inc.*, 704 F.3d 239, 245 (3d Cir. 2013) (citation omitted) (emphasis added). In short, a complaint must plead sufficient facts to support a reasonable inference that a constitutional violation has occurred in order to survive this Court’s review under § 1915.

10. Here, however, the Complaint states only that Plaintiff slept “on the floor with four other inmates in a room that was unsanitary and uncomfortable . . . [CCCF] officers placed me in rooms with four other inmates which was uncomfortable.” Complaint § III(C).

11. Plaintiff states that these events occurred “3-18-2004, 2-26-2010, 8-12-2010, 6-21-2013, 8-23-2014, [and] 1-30-2016.” *Id.* § III(B).

of Civil Procedure 12(b)(6).” *Samuels v. Health Dep’t*, No. 16-1289, 2017 WL 26884, slip op. at *2 (D.N.J. Jan. 3, 2017) (citing *Schreane v. Seana*, 506 F. App’x 120, 122 (3d Cir. 2012)).

12. Plaintiff does not identify any injuries sustained in connection with these events. *Id.* § IV.

13. Plaintiff seeks "whatever the Court feel[s] is reasonable for me." *Id.* § V.

14. Even construing the Complaint as seeking to bring a civil rights complaint pursuant to 42 U.S.C. § 1983 for alleged prison overcrowding, any such purported claims must be dismissed. Even accepting the statements in Plaintiff's Complaint as true for screening purposes only, the Complaint does not allege sufficient facts to support a reasonable inference that a constitutional violation has occurred in order to survive this Court's review under § 1915.

15. The mere fact that an individual is lodged temporarily in a cell with more persons than its intended design does not rise to the level of a constitutional violation. *See Rhodes v. Chapman*, 452 U.S. 337, 348-50 (1981) (holding double-celling by itself did not violate Eighth Amendment); *Carson v. Mulvihill*, 488 F. App'x 554, 560 (3d Cir. 2012) ("[M]ere double-bunking does not constitute punishment, because there is no 'one man, one cell principle lurking in the Due Process Clause of the Fifth Amendment.'" (quoting *Bell v. Wolfish*, 441 U.S. 520, 542 (1979))). More is needed to demonstrate that such crowded conditions, for a pretrial detainee, shocks the conscience and thus violates due process rights. *See Hubbard v. Taylor*, 538

F.3d 229, 233 (3d Cir. 2008) (noting due process analysis requires courts to consider whether the totality of the conditions "cause[s] inmates to endure such genuine privations and hardship over an extended period of time, that the adverse conditions become excessive in relation to the purposes assigned to them.").

16. Plaintiff may be able to amend the Complaint to particularly identify adverse conditions that were caused by specific state actors, that caused Plaintiff to endure genuine privations and hardship over an extended period of time, and that were excessive in relation to their purposes. For this purpose, the Court grants Plaintiff leave to amend the Complaint within 30 days of the date that this Opinion and Order are entered on the docket.³

17. To survive review under § 1915, any amended complaint must plead specific conditions of confinement facts supporting a reasonable inference a constitutional violation occurred.⁴

³ The amended complaint shall be subject to screening prior to service.

⁴ To the extent the Complaint seeks relief for conditions Plaintiff encountered prior to November 20, 2015, those claims are barred by the statute of limitations. Claims brought under § 1983 are governed by New Jersey's two-year limitations period for personal injury. See *Wilson v. Garcia*, 471 U.S. 261, 276 (1985); *Dique v. N.J. State Police*, 603 F.3d 181, 185 (3d Cir. 2010). "Under federal law, a cause of action accrues when the plaintiff knew or should have known of the injury upon which the action is based." *Montanez v. Sec'y Pa. Dep't of Corr.*, 773 F.3d 472, 480 (3d Cir. 2014). Allegedly unconstitutional conditions

18. When an amended complaint is filed, the original complaint no longer performs any function in the case and cannot be used to cure defects in the amended complaint, unless the relevant portion is specifically incorporated in the new complaint. 6 Wright, Miller & Kane, Federal Practice and Procedure 1476 (2d ed. 1990). An amended complaint may adopt some or all of the allegations in the original complaint, but the identification of the particular allegations to be adopted must be clear and explicit. *Id.* To avoid confusion, the safer course is to file an amended complaint that is complete in itself. *Id.* The amended complaint may not adopt or repeat claims that have been dismissed with prejudice by the Court.

19. For the reasons stated above, the Complaint is: (a) dismissed with prejudice as to the CCCF; and (b) dismissed without prejudice for failure to state a claim as to allegations of unconstitutionally overcrowded conditions of confinement.

20. An appropriate order follows.

April 23, 2018

Date

s/ Jerome B. Simandle

JEROME B. SIMANDLE

United States District Judge

of confinement would have been immediately apparent to Plaintiff; therefore, the statute of limitations on some of Plaintiff's claims expired two years after release from incarceration. In the event Plaintiff elects to file an amended complaint, it should be limited to confinements in which Plaintiff was released after November 20, 2015.